HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.21262 of 1999

Dated 11th Day of April, 2007

Between:

Md. Ishag .. Petitioner

And

The Govt. of A.P. rep. by its
Secretary, Labour, Employment, Training &
Factories Dept.,
Secretariat, Hyderabad
and another .. Respondents

O R D E R:

This writ petition is instituted seeking a mandamus to declare the Proceedings dated 6.3.1998 issued by the 1st respondent-Government refusing to refer the matter to the Labour Court on the ground that dispute does not merit reference, as arbitrary and illegal.

The brief facts of the case are that the petitioner's services in the 2nd respondent-Corporation as Driver were regularized with effect from September 1989. While so, the 2nd respondent imposed punishment on him by reducing his pay by two incremental stages with cumulative effect besides treating the period of suspension. When the Union raised a dispute before Conciliation Officer i.e. Assistant Commissioner of Labour, Sangareedy, he advised the 2nd respondent to reconsider the petitioner's case, but it did not agree to that. Then the Conciliation Officer closed the conciliatory proceedings and submitted the failure report to the 1st respondent. Now, the grievance of the petitioner is that the 1st respondent passed the impugned proceedings refusing to refer the matter to the Industrial Tribunal on the ground that the dispute raised does not merit reference for adjudication.

Though the 2nd respondent filed a counter affidavit, the 1st respondent-Government, which refused to refer the matter to the Labour Court, has not chosen to file any counter.

The impugned order dated 6.3.1998 reads as follows:

"Please refer to the conciliation report 2nd cited. Further I am directed to inform you that the dispute raised by you does not

merit reference for adjudication, as there is no proper espousal of the dispute."

Heard the learned counsel for both the parties.

It is clear that the Union has taken up the cause of the petitioner and espoused it. Hence, it cannot be said that there is no dispute, which requires a reference to the Labour Court. Apart from that, as stated above, the 1st respondent has not chosen to file counter affidavit. Hence, the contention put forth by the learned counsel for the petitioner is accepted and the Proceedings dated 6.3.1998 issued by the 1st respondent-Government are liable to be set aside

In the result, the writ petition is allowed setting aside the Proceedings dated 6.3.1998 and the 1st respondent is hereby directed to refer the dispute of the petitioner to a competent Labour Court within a period of six weeks from the date of receipt of a copy of this order. No costs.

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11.04.2007

bcj